

Staff Briefing Papers

Meeting Date July 29, 2021 Agenda Item **5

Company Northern State Power Company d/b/a Xcel Energy

Docket No. **E,G-002/M-21-329**

In the Matter of a Proposal by Northern States Power Company d/b/a Xcel Energy to Offer an Unregulated Energy, Infrastructure, and Sustainability Program for Business Customers

- Issues
1. Should the Commission grant Xcel Energy’s request to withdraw its Notice?
 2. Should the Commission require a status report on Xcel Energy’s stakeholder engagement?
 3. Should the Commission require Xcel Energy to submit a new filing by September 1, 2021?

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 **Relevant Documents**

Date

Northern States Power Company d/b/a Xcel Energy – Initial Filing (Notice)	May 12, 2021
PUC – Notice of Comment Period	June 8, 2021
Northern States Power Company d/b/a Xcel Energy – Withdrawal Request	June 18, 2021

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

 **Relevant Documents**

Date

PUC – Notice of Comment Period on Xcel Energy’s Request to Withdraw (Initial Filing)	June 25, 2021
Center for Energy and Environment - Comments	June 28, 2021
Minnesota Department of Commerce, Division of Energy Resources - Comments	July 2, 2021
PUC – Notice Suspending Comment Period and Requesting Xcel Energy to Provide Reply Comments	July 7, 2021
Northern States Power Company d/b/a Xcel Energy – Reply Comments	July 7, 2021

I. Statement of the Issues

1. Should the Commission grant Xcel Energy's request to withdraw its Notice?
2. Should the Commission require a status report on Xcel Energy's stakeholder engagement?
3. Should the Commission require Xcel Energy submit a new filing by September 1, 2021?

II. Background

On May 12, 2021, Northern States Power Company, doing business as Xcel Energy (Xcel Energy or the Company), submitted a Notice in the instant docket informing the Minnesota Public Utilities Commission (Commission) of its plan to launch a program with the intent of providing non-regulated services to business customers (Notice).

On June 8, 2021, the Commission issued a Notice of Comment Period to determine what action the Commission should take, if any, in response to Xcel Energy's Notice. The Commission's comment notice included a number of specific issues and questions.

On June 18, 2021, Xcel Energy submitted a letter requesting permission to withdraw its Notice, stating that it planned to work to address issues that had been raised by stakeholders. In the letter, Xcel Energy also stated that "once we have addressed the issues, we plan to submit an updated filing as soon as possible."

On June 25, 2021, the Commission issued a Notice of Comment Period to consider whether Xcel Energy's withdrawal request should be granted and to address other related issues.

On June 28, 2021, the Center for Energy and Environment (CEE) filed comments in response to Xcel Energy's withdrawal request.

On July 2, 2021, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments in response to Xcel Energy's withdrawal request.

On July 7, 2021, the Commission issued a Notice of Suspension of Comment Period (that had been set out in its June 8 comment notice) and Request for Xcel Energy to Provide Reply Comments.

On July 7, 2021 Xcel Energy filed reply comments.

III. Parties' Comments

A. Xcel Energy

On May 12, 2021, Xcel Energy filed what it termed a Notice "Informing the Commission of Xcel Energy's New Non-Regulated Offerings." The program offerings to businesses would include the following: Facility Management; Testing, Maintenance, and Training; Benchmarking; and Sustainability. Xcel Energy stated that they were submitting the filing for informational purposes only and not requesting any Commission action. However, to the extent the

Commission believed it necessary to approve the Company's proposed accounting treatment for this program, Xcel Energy requested such approval.

An abbreviated description of the proposed service offerings based on Xcel Energy's filing include:

- **Facility Management Services:** Recommend and implement improvements or upgrades to commercial facilities. The Company would provide recommendations on repairs or upgrades that could reduce energy consumption, and implement solutions including managing the engineering design, equipment procurement and installation, and ongoing monitoring, and may also finance certain equipment or system upgrades.
- **Testing, Maintenance and Training Services:** Provide equipment-related services such testing, preventative maintenance or repairs to commercial equipment and offer training on equipment services to a business' employees.
- **Benchmarking Services:** Assist building owners in complying with municipal benchmarking ordinances. The Company would collect and report the data to local municipalities on the customer's behalf and provide recommendations to business owners on how to improve their benchmarking score.
- **Sustainability Services:** Provide strategic consulting services to help businesses identify ways to integrate sustainability into their core operations, develop a sustainability plan, and provide assistance in implementing that plan.

Subsequent to the filing and the Commission's Notice of Comment Period, Xcel Energy stated that they received numerous questions from its stakeholders related to the new program. In light of the questions raised by the Commission in its June 8 Notice and Xcel Energy's stakeholders, the Company requested permission to withdraw its Notice of New Non-Regulated Offerings while it works to address these issues with its stakeholders. Xcel Energy stated that it plans to submit a new filing as soon as possible.

B. CEE

Pursuant to the Commission's June 25th Notice of Comment Period on Xcel Energy's withdrawal request, CEE states that it supports Xcel Energy's request to withdraw its initial filing on new nonregulated services. CEE stated that it appreciates Xcel Energy's willingness to pause and work with stakeholders and regulators to address questions and concerns about the proposed unregulated offering. CEE does not believe that the Company's request to withdraw the filing should be treated as a request to make a future amended filing and, as such, does not see the need for Xcel Energy to make regular status reports to the Commission on stakeholder discussions.

CEE believes that the approach described above allows the broadest range of potential outcomes and timing and looks forward to discussions with the utility and other stakeholders.

C. Department

The Department does not object to the withdrawal of this filing, as it seems reasonable and appropriate for Xcel Energy to address issues with parties before refiling. The Department

hopes that Xcel's amended filing will resolve some or all of the concerns raised. However, the Department noted its concern that issues raised in this filing may impact Xcel Energy's upcoming electric rate case, anticipated to be filed November 1, 2021.

Based upon the wording of Xcel's June 18th withdrawal request, the Department believes Xcel Energy plans to refile its proposal. The Department is concerned that issues in this docket will impact Xcel Energy's upcoming rate case and it would benefit all parties and the Commission if the Department and other interested parties could review the new filing prior to the Company filing its rate case. As such, the Department recommends that the Commission require Xcel Energy to meet with interested parties and file at least one status report no later than August 20, 2021. The Department also recommends that Xcel Energy be required to submit its amended filing by September 1, 2021, to allow parties to review and comment on the amended filing prior to the Company filing its upcoming rate case on November 1, 2021.

D. Xcel Energy Reply Comments

Xcel Energy states that it plans to meet with stakeholders, including CEE and the Department, in the coming weeks to further discuss the questions received in response to its Notice. Once those discussions have occurred, Xcel Energy plans to incorporate the feedback received into an amended filing. Xcel Energy states it will make every effort to submit an amended filing by September 1, 2021. However, Xcel Energy is concerned that this timing may not allow sufficient time to fully resolve the questions that have been raised. Therefore, Xcel Energy recommends the Commission not impose a requirement to submit an amended filing on or before September 1, 2021. However, Xcel Energy states it understands the Department's concern and, therefore, the Company commits to addressing how the issues in this docket impact the Company's rate case in its amended submission. In addition, Xcel Energy also agreed to the Department's recommendation to file a status report no later than August 20, 2021.

IV. Staff Analysis

Minnesota Rule 7829.0430 governs the withdrawal of a filing before the Commission. Under Minnesota Rules 7829.0430, subpart 1, the Executive Secretary of the Commission will grant approval of a non-contested withdrawal if the party has properly served the filing, no person has expressed an objection to the withdrawal within 14 days of the service, and no Commissioner or Commission staff person has identified a reason that the matter should not be withdrawn. Minnesota Rules 7829.0430, subpart 2, sets out factors the Commission must consider if any person opposes a withdrawal request within 14 days of service.

No party opposed Xcel Energy's withdrawal request; however, because the Department made its recommendation contingent upon additional filing requirements, staff concludes that Commission action to address Xcel Energy's request is necessary.

In addition, Staff notes the many significant policy concerns and questions raised by Xcel Energy's initial filing and notice of its intent to offer non-regulated services. Many of these questions and concerns are identified in the Commission's June 8 notice. Because these questions and concerns are ongoing and not limited to Xcel Energy's next general rate case, staff recommends that this docket be kept open for further filings and comments by parties and

regular updates by Xcel Energy. More specifically, staff does not believe Xcel Energy's withdrawal request is an indication that Xcel intends to 'stop work' or pause its program development, only that it intends to (in addition) work with stakeholders on concerns. Staff believes record development is needed on many issues, not simply standard rate case and affiliated interest accounting and cost allocation issues – including use of customer data, further development of existing data rights and privacy, grid data sharing, and access to customers or third parties (both grid and customer), identification of shared use and delineation of Xcel Energy's internal software and new grid technologies or hardware, utilization of the Company's brand, and other issues not yet explored. This list of issues is not exhaustive, and the Commission may want to consider consulting with stakeholders on which issues need further development, either within the context of this proposal or more broadly.

As the grid becomes more dynamic, as more products and offerings become available to customers – both individual customer options and aggregated programs, proposals like these will need significantly more upfront information and detail to be considered by the Commission to ensure transparency, fairness, and proper delineation of Xcel Energy's service. Staff does not believe this filing or proposal will be the last it sees from Xcel Energy of this nature (assuming Xcel Energy determines Commission notification is required) and proactive reporting from the Company (or Commission oversight) may be reasonable.

If the Commission allows Xcel Energy to withdraw its initial filing, this docket does not need to be closed. Xcel Energy can submit its status report(s) and its amended proposal in this docket.

V. Decision Options

1. Accept Xcel Energy's request for permission to withdraw its May 12, 2021 notice.
2. Accept Xcel Energy's request for permission to withdraw its May 12, 2021 notice contingent upon one or more of the following requirements:
 - a. Direct Xcel Energy to work with stakeholders on a revised proposal (Xcel Energy, CEE, Department);
 - b. Require Xcel Energy to file a status report on its consultations with stakeholders about its revised proposal by August 20, 2021 (Xcel Energy, Department); and
 - c. Require that Xcel Energy submit its amended filing by September 1, 2021. (Xcel Energy, Department)
3. Accept Xcel Energy's request for permission to withdraw its May 12, 2021 notice contingent upon one or more of the following requirements:
 - a. Direct Xcel Energy to work with stakeholders on the issues identified;
 - b. Require Xcel Energy to file a status report in this docket on its consultation with stakeholders about its initial and revised proposals by August 20, 2021;
 - c. Require that Xcel Energy submit in this docket its amended proposal, if any, by September 1, 2021; or if an amended proposal is not submitted by September 1, 2021, require Xcel Energy to submit status reports every ninety days in this docket on its non-regulated service offerings. (PUC Staff)

Staff recommends Options 3 a through c